IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.2542 OF 2005

Mohammad Yakubbhai Pansare, since deceased
by his heirs and legal representatives:
a) Shri Adam Mohammad Pansare & Ors. : Petitioners

V/s.

Shri Mubarak Ibrahim Pansare & Ors. : Respondents

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Mr.M.L. Patil for the petitioners.

Mr.R.S.Apte for the respondent nos.1 to 3.

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CORAM : S.A. BOBDE, J.

September 2, 2005.

P.C.:

1. Rule, returnable forthwith.

Mr.Apte for the respondent nos.1 to 3 waives service of rule.

Heard by consent.

2. Mr.Patil, the learned counsel for the petitioners submits that the learned Addl. Commissioner could not have relied on the Karar Patra dated 27.8.1969 which has been produced by the respondents to prove the exclusive

title in their favour by way of gift i.e. hiba under Mohammedan law. It is clear from the order, and this is not disputed by Mr.Apte, the learned counsel for the respondent nos.1 to 3, that the revenue authorities could not have given any finding as to the title of the property on the basis of the Karar Patra. The order of the learned Addl. Commissioner cannot be read as conferring any title on the respondents, in pursuance of the aforesaid Karar Patra. The only other question that remains is the question of possession. As regards the finding of possession, the petitioners will be at liberty to prove to the contrary in appropriate proceedings.

3. The petition stands disposed of in the aforesaid terms.

S.A. BOBDE, J.